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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,243	03/18/2004	Johannes Kocher	P/4309-71	7473

7590

07/24/2006

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EXAMINER

MATTHEWS, TERRELL HOWARD

ART UNIT	PAPER NUMBER
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3654

DATE MAILED: 07/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/804,243

Applicant(s)

KOCHER ET AL.

Examiner

Terrell H. Matthews

Art Unit

3654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5,9 and 11-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/18/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 3,6-8,10 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Species II-V, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 4/25/2006.

Applicant's election without traverse of claims 1,2,4-5,9, 11-13 in the reply filed on 4/25/2006 is acknowledged.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 1-2,4-5, 9,11-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More specifically, Claim 1 is indefinite because it is unclear as to how the stop bar bears against the engagement members provided on the guide rail if the engagement member is a hole. It should be noted that claim 1 is inaccurate as it states and implies that the stop bar always bears against engagement members however as illustrated in Fig. 1 and discussed above the stop bar is not bearing against engagement members when it is in its stored position on the roof or when the engagement members are holes.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,4-5,9,11,13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chatham (US-5773771) in view of Schmidt (US-6860501).

Referring to claims 1,4,13. Chatham discloses an "Apparatus for preventing unintended movement of elevator car". See Figs. 1-7 and respective portions of the specification. Chatham further discloses an assembly for providing a temporary safety space within an elevator hoistway wherein upward or downward movement of a car or a counterweight along guide rails is prevented, the assembly comprising; engagement members (80) provided on the guide rail (30a); and a stop bar (61) that bears against the engagement members, the engagement members being one of arranged to permanently secure the guide rail to the hoistway (See at least Col. 5 l. 30-46 & at least Fig. 4). Chatham does not disclose wherein the stop bar comprises a resilient layer positioned on a side of the stop bar adjacent the car or counterweight so to absorb impact force when the car or counterweight initially bears against the stop bar. Schmidt discloses a "Weight Distributing Hitch Assembly" comprising a spring bar (34), which comprises a resilient layer positioned on a side of the stop bar. It would have been

Art Unit: 3654

obvious to a person of ordinary skill in the art at the time of the invention to modify the apparatus of Chatham to include a resilient layer stop bar as taught by Schmidt so that the stop bar would absorb some of the impact force which would make it more durable over the long run.

Referring to claim 5. Chatham discloses a fixing element (11c, 11d) to secure the stop bar to one of the car and the counterweight (See at least Figs. 1,4).

Referring to claim 9. Chatham discloses wherein the engagement members are plates (80) and bolts (81) that permanently secure the guide rail to the hoistway (See at least 31-46 & at least Fig. 4). Chatham does not disclose wherein the engagement members are nuts and bolts. It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the apparatus of Chatham to include nuts as the engagements members so that less space would be taken up in the hoistway and so that it was easier to construct.

Referring to claim 11. With respect to claim 11, the method described in these claims would inherently result from the use of Chatham's of apparatus for preventing unintended movement of elevator car as applied to claims 1,4-5,9,13 as advanced above.

Allowable Subject Matter

Claims 2, 12 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. More specifically, claim 2 would

be allowable if rewritten to overcome the rejections of claim 1. Meanwhile, claim 12 would be allowable if rewritten to overcome the rejections of claim 11.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lin (US-5651429) discloses a "Elevator Safety Apparatus". See Figs. 1-6 and respective portions of the specification. Lin discloses a engagement members provided on the guide rail and a stop bar having opposing ends that bear against the engagement members.

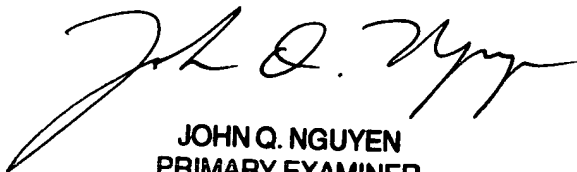
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrell H. Matthews whose telephone number is (571)272-5929. The examiner can normally be reached on M-F 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3654

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

THM



JOHN Q. NGUYEN
PRIMARY EXAMINER